

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
WESTERN DIVISION**

BOBBY EARL KEYS, 03344-043

PETITIONER

VERSUS

CIVIL ACTION NO. 5:05cv215DCB-JCS

MICHAEL PETTIFORD, Warden FCI-Yazoo

RESPONDENT

ORDER

BEFORE the Court is petitioner's request for habeas corpus relief filed pursuant to 28 U.S.C. § 2241. The Court notes that the petitioner failed to file an application to proceed in forma pauperis or submit the \$5.00 filing fee. Hence, the petitioner shall complete the attached form and file it within twenty days. In addition, upon initial review of the petition submitted, the Court finds that the petitioner shall provide and/or clarify the following information. Accordingly, it is hereby,

ORDERED:

1. That within twenty (20) days of the date of this order, petitioner shall file a completed application for leave to proceed in forma pauperis (attached) OR pay the \$5.00 filing fee.
2. That within twenty (20) days from the entry of this order the petitioner shall file a written response to this order specifically providing the following information concerning the criminal conviction and sentence upon which the petitioner bases this habeas petition:

- (a) state if the petitioner has filed a motion to vacate, set aside, or correct sentence pursuant to 28 U.S.C. § 2255 or other motion which the sentencing court has construed as a motion pursuant to 28 U.S.C. § 2255;
- (b) state if the petitioner has filed such a motion, state the grounds presented in that motion;

- (c) state the decision of that court concerning the § 2255 motion;
- (d) state the date of the decision of that court;
- (e) state if the petitioner appealed the decision of the sentencing court concerning the § 2255 motion;
- (f) state the decision of the court of appeals concerning the appeal of the § 2255 motion;
- (g) state the date of the decision of the court of appeals concerning the appeal of the § 2255 motion;
- (h) state if the petitioner has filed a previous petition for habeas relief pursuant to 28 U.S.C. § 2241 in any federal district court;
- (i) if so, state the grounds presented in the previous § 2241 petition;
- (j) state the decision of the district court concerning the previous § 2241 petition;
- (k) state the date of the decision of the court concerning the previous § 2241 petition;
- (l) state if the petitioner appealed the decision of the district court concerning the § 2241 petition;
- (m) state the decision of the court of appeals concerning the appeal of the § 2241 petition;
- (n) state the date of the decision of the court of appeals concerning the appeal of the § 2241 petition;
- (o) state the grounds on which the petitioner is basing this habeas corpus petition; and
- (p) specifically state if the petitioner is claiming that a motion pursuant to 28 U.S.C. § 2255 is an inadequate or ineffective means of attacking his current confinement and

if so, state grounds to support this assertion.

3. That the petitioner is required to file his original response to this order with the Clerk of Court, Western Division, P.O. Box 23552, Jackson, Mississippi 39225-3552. Failure to properly file a response may result in this civil action being dismissed.

4. That the Clerk shall mail the attached in forma pauperis application to the petitioner at his last known address.

5. That failure to advise this Court of a change of address or failure to timely comply with any order of this Court will be deemed as a purposeful delay and contumacious act by the petitioner and may result in this cause being dismissed without prejudice and without further notice to the petitioner.

THIS, the 9th day of December, 2005.

s/James C. Sumner
UNITED STATES MAGISTRATE JUDGE

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
_____ DIVISION

Petitioner

v.

CIVIL ACTION NO. _____

Respondent

MOTION TO PROCEED *IN FORMA PAUPERIS*

I, _____, declare that I am the petitioner in the above-entitled proceeding; that in support of my request to proceed without prepayment of fees or costs under 28 U.S.C. §1915 I declare that I am unable to pay the costs of said proceedings or give security therefor; that I believe I am entitled to the relief.

Signed: _____ Date: _____

AFFIDAVIT IN SUPPORT OF MOTION

In support of this motion, I answer the following questions under penalty of perjury:

1. Are you currently incarcerated? _____ Yes _____ No
If "yes" state the place of your incarceration _____
2. Are you presently employed (at the institution or otherwise)? _____ Yes _____ No
 - a. If the answer is "yes," state the amount of your salary or wages per month, and give the name and address of your employer. _____

 - b. If the answer is "no," state the date of the last employment and the amount of the salary and wages per month which you received. _____

3. Have you received within the past twelve months any money from any of the following

sources?

- | | | |
|---|-----------|----------|
| a. Business, profession or form of self-employment? | _____ Yes | _____ No |
| b. Rent payments, interest or dividends? | _____ Yes | _____ No |
| c. Pensions, annuities or life insurance payments? | _____ Yes | _____ No |
| d. Gifts or inheritances? | _____ Yes | _____ No |
| e. Any other sources? | _____ Yes | _____ No |

If the answer to any of the above is "yes," describe each source of money and state the amount received from each during the past twelve months. _____

_____.

4. Do you own cash, or do you have money in a checking or savings account?

_____ Yes _____ No (Include any funds in prison accounts.)

If the answer is "yes," state the total value of the items owned. _____

_____.

5. Do you own any real estate, stocks, bonds, notes, automobiles, or other valuable property (excluding ordinary household furnishings and clothing)? _____ Yes _____ No

If the answer is "yes," describe the property and state its approximate value. _____

_____.

6. List the persons who are dependent upon you for support, state your relationship to those persons, and indicate how much you contribute toward their support.

_____.

I declare (or certify, verify or state) under penalty of perjury that the foregoing is true and correct.

Executed on _____
Date

Signature of Petitioner

Certificate

I hereby certify that the petitioner herein has the sum of \$_____ on account to his credit at the _____ institution where he is confined. I further certify that petitioner likewise has the following securities to his credit according to the records of said _____ institution: _____.

Date

Authorized Officer of Institution